ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ober	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN WATER COMPANY, INC. FOR APPROVAL OF (A) A NEW DISTRIBUTION SYSTEM IMPROVEMENT CHARGE ("DSIC") PURSUANT TO IND. CODE CHAP. 8-1-31; (B) A NEW RATE SCHEDULE REFLECTING THE DSIC; AND (C) INCLUSION OF THE COST OF ELIGIBLE DISTRIBUTION SYSTEM IMPROVEMENTS IN ITS DSIC	)	**CAUSE NO. 42351 DSIC 12** **APPROVED: MAR 17 2021**

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Brad J. Pope, Administrative Law Judge

On January 19, 2021, Indiana-American Water Company, Inc. ("Indiana-American" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition and Submission of Case-in-Chief for approval of a new distribution system improvement charge ("DSIC") pursuant to Ind. Code ch. 8-1-31 and 170 IAC 6-1.1. On January 25, 2021, Indiana-American late-filed Petitioner's affidavit and attestation for DSIC filing, which was inadvertently omitted from the original filing. Indiana-American also filed corrections to its case-in-chief testimony on January 25, January 27, and February 5, 2021.

On January 28, 2021, the City of Crown Point, Indiana ("Crown Point") filed its Petition to Intervene, which the Presiding Officers granted by docket entry on February 5, 2021.

The Indiana Office of the Utility Consumer Counselor ("OUCC") filed its case-in-chief on February 18, 2021. On February 25, 2021, Indiana-American filed a Joint Proposal for Resolution in Lieu of Settlement ("Resolution") on behalf of itself and the OUCC resolving all issues in this Cause.[1] Indiana-American also filed updated testimony and attachments incorporating the terms of the Resolution, as well as an updated calculation of the DSIC charge and a revised tariff. On March 1, 2021, the Presiding Officers issued a docket entry requesting additional information to which Indiana-American responded on March 3, 2021.

The Commission set this matter for an Evidentiary Hearing to be held on March 4, 2021, at 1:30 p.m. in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. On February 26, 2021, a docket entry was issued advising that due to the ongoing COVID-19 pandemic, the hearing would be conducted via WebEx videoconferencing and providing related participation information. Indiana-American, Crown Point, and the OUCC participated in the hearing by counsel,

[1] As part of the Resolution, the OUCC agreed not to offer its prefiled case-in-chief testimony in this Cause, thereby effectively withdrawing its opposition to the only remaining contested issue in this case.

and the prefiled evidence of Indiana-American was offered and admitted into the record without objection.

Based on the applicable law and evidence presented, the Commission now finds:

1. Notice and Jurisdiction. Due, legal, and timely notice of the public hearing in this Cause was given and published as required by law. Petitioner also provided notice of its filing in this Cause to its wholesale customers pursuant to 170 IAC 6-1.1-4. Petitioner is a "public utility" within the meaning of that term in Ind. Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana. Under Ind. Code ch. 8-1-31 and 170 IAC 6-1.1, the Commission has jurisdiction over DSIC proceedings. As such, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. Petitioner's Characteristics. Petitioner is an Indiana corporation engaged in the business of rendering water utility service to customers in numerous municipalities and counties throughout the State of Indiana for residential, commercial, industrial, public authority, sale for resale, and public and private fire protection purposes. Petitioner also provides sewer utility service in Delaware, Hamilton, Wabash, and Vigo Counties.

3. Relief Requested. Petitioner seeks approval of a DSIC pursuant to Ind. Code ch. 8-1-31, a new rate schedule reflecting the DSIC, and approval of the costs of the eligible Distribution System Improvements ("Improvements") in Petitioner's DSIC. Petitioner's most recent DSIC was approved in Cause No. 42351 DSIC 11 on March 14, 2018 (the "DSIC 11 Order"). The Commission's DSIC 10 Order was issued on March 22, 2017. In accordance with the Commission's rules, Petitioner filed its first reconciliation report for DSIC 10 on April 20, 2018, and the resulting increase to the DSIC rate was approved by the Commission and made effective April 20, 2018. Petitioner filed its first reconciliation report for DSIC 11 on April 12, 2019, and the resulting change to the DSIC rate was approved by the Commission and made effective April 12, 2019. As a result of the Commission's June 26, 2019 Order in Petitioner's last general rate case in Cause No. 45142 ("2019 Rate Order"), Petitioner's DSIC charge was reset to zero effective July 1, 2019. On April 23, 2020, Petitioner filed its reconciliation report for DSIC 10 and DSIC 11 covering the following periods: (1) March 14, 2019 to April 11, 2019; and (2) April 12, 2019 to June 30, 2019. The April 23, 2020 reconciliation report reflected an over-recovery, which Petitioner has included in the calculation of the DSIC rates to be implemented pursuant to this proceeding.

In this Cause, Petitioner is proposing to include projects placed in service on or prior to November 30, 2020, that do not increase revenues by connecting to new customers and were not included in rate base in the 2019 Rate Order. In the updated testimony and schedules filed on February 25, 2021 incorporating the terms of the Resolution, Petitioner proposed a DSIC surcharge per equivalent 5/8-inch meter of $1.60 to produce total annual DSIC revenues of $7,568,226.

4. Petitioner's Direct Evidence. Petitioner presented the direct evidence of Gregory D. Shimansky, Director, Rates & Regulatory for Indiana-American, and Stacy S. Hoffman, Director of Engineering for Indiana-American.

A. Calculation of DSIC 12. Mr. Shimansky testified regarding the filing requirements and methodology for calculating the DSIC. He also explained the calculation of the proposed DSIC and sponsored Petitioner's proposed DSIC rates. He stated that Petitioner's DSIC surcharge that was approved in the DSIC 11 Order was reset to zero with the approval of new base rates effective as of July 1, 2019, as approved in the 2019 Rate Order. Mr. Shimansky explained that as part of the Settlement approved by the 2019 Rate Order, the settling parties agreed to a reduction of $40 million to Petitioner's proposed end of test year rate base, to consist of non-DSIC eligible assets. He stated that the 2019 Rate Order established a rate base cap of $1,182,170,152 and that Petitioner agreed in the Settlement that it would invest more than $114,004,218 (excluding costs of removals and retirements) in distribution system improvements during the period between November 30, 2017 and April 30, 2020. He explained Petitioner also agreed that its next DSIC application "shall only include distribution system improvement costs that exceed the $114,004,218 (excluding costs of removals and retirements) projected to be made during the period between November 30, 2017 and April 30, 2020." Petitioner's Exhibit No. 1, page 6. He stated that Petitioner's Step 2 compliance filing in Cause No. 45142 effective May 1, 2020, included DSIC-eligible capital additions up to the agreed-upon level.

Mr. Shimansky testified that Petitioner witness Hoffman includes a list of assets that comply with the requirement that this DSIC proceeding only include distribution system improvement costs that exceed $114,004,218. Mr. Shimansky further testified Petitioner proposes to include in this DSIC only non-revenue producing projects placed in service prior to November 30, 2020 that were not included in the 2019 Rate Order rate base cap.

Mr. Shimansky then discussed how Petitioner calculated the Net Investor Supplied DSIC Additions. He stated that Petitioner started with DSIC Improvements of $77,389,035, which he reduced by the amount of related plant retirements (shown on Petitioner's Exhibit No. 1, Attachment GDS-2, Schedule 1, Line 1), consistent with the DSIC 8 Order. He explained that the actual amount of the cost of removal, net of salvage, of $8,238,534 was then added. He stated that there were total reimbursements from the Indiana Department of Transportation ("INDOT") and others in the amount of $16,399. He testified that these reimbursements were removed from the DSIC Improvements, resulting in Net Investor Supplied DSIC Additions of $80,622,929, as shown on Petitioner's Exhibit No. 1, Attachment GDS-2, Schedule 1, Line 5.

Mr. Shimansky explained that the rate of return used in this proceeding is Petitioner's weighted average cost of capital based on the most recent data available through December 31, 2020. He testified the long-term debt cost rate used in this calculation is 4.89%. The common equity rate of return is 9.80%, as approved in the 2019 Rate Order. The weighted average cost of capital used is 6.19% after tax. He testified that Attachment GDS-2, Schedule 5 to his direct testimony shows the derivation of the weighted cost of capital of 6.19% and the pre-tax rate of return of 7.79%. Also shown on Attachment GDS-2, Schedule 5 is Petitioner's calculation of a gross revenue conversion factor of 136.6718%, calculated using those taxes and fees that will be in effect during the time the DSIC Revenues are billed. He testified these taxes, fees, and expenses are the Utilities Receipts Tax of 1.4%, the IURC Fee of 0.1202%, Uncollectible/Bad debt rate of 1.0167%, the State Income Tax of 4.9785% (1/4 of the DSIC period at 5.25% and 3/4 of the DSIC period at 4.9%), and the Federal Income Tax of 21%.[2] Mr. Shimansky testified that the gross revenue conversion factor was multiplied

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[2] No party disputed use of the IURC fee rate applicable to the State's 2018/2019 fiscal year. In addition, Petitioner has a transposition error in its State Income tax rate. The rate should be 4.9875% instead of the 4.9785% shown on CORRECTED Shimansky, page 11.

by the weighted cost of the non-debt components of the capital structure to determine the pre-tax return of 7.79%.

Mr. Shimansky testified that Petitioner determined its depreciation expense of $1,537,571 by using the annual depreciation rates by primary plant account previously approved by the Commission, multiplied by the Improvements, net of related retirements. He further testified the depreciation rates used were those that were approved by the Commission in Cause No. 44992 and made effective with the rate increase approved by the Commission in Cause No. 45142. Mr. Shimansky explained how the total applicable DSIC revenues of $7,815,013, before the reduction based on returning the reconciled DSIC 11 over-collection, for DSIC 12 was calculated. He testified and provided schedules showing that the applicable DSIC 12 revenues of $6,249,165 do not exceed 10% of Petitioner's base revenue level. Mr. Shimansky also explained that per applicable state law, the DSIC surcharge will be applied as a monthly fixed charge based upon meter size. He further explained how the monthly surcharge of $1.64 per equivalent 5/8-inch meter to produce total annual DSIC revenues of $7,743,737 was calculated.

B. <u>Description of DSIC Improvements</u>. Mr. Shimansky and Petitioner witness Stacy S. Hoffman outlined Petitioner's compliance with the Commission's DSIC rules in 170 IAC 6-1.1. Mr. Hoffman sponsored Petitioner's Exhibit No. 2, Attachment SSH-1, which provides a summary of costs for non-blanket and blanket project categories, and Attachment SSH-2 and Attachment SSH-3, which provide the list of projects included in this DSIC. Attachment SSH-2 lists non-blanket projects individually by project number, with project description, the date placed in service, the project purpose, the resulting benefits, the applicability of easements, the range of age of plant retired, pipe diameters, pipe length, and the total costs incurred. Attachment SSH-3 lists statewide blanket projects by project number, with project description, the project purpose, the resulting benefits, the range of age of plant retired, and the total costs incurred. Attachment SSH-3 also lists quantities of blanket project assets replaced and retired. Attachment SSH-4 lists all projects with additional cost detail by utility account. Attachment SSH-5 lists all projects with retirement cost detail by utility account. Attachment SSH-6 lists all projects with cost of removal and salvage detail by utility account. Mr. Hoffman stated that Petitioner has invoices and other cost support for all projects listed in Attachment SSH-2 and Attachment SSH-3.

Mr. Hoffman further testified that Attachment SSH-10 lists quantities and cost information for lead service line replacements and retirements ("LSLR") from 2017 through November 2020. He explained that the information in Attachment SSH-10 was not used in the calculation of revenue requirement for DSIC 12, but rather to provide an update on Petitioner's LSLR program approved in Cause No. 45043. Attachment SSH-11 lists Petitioner's DSIC-eligible plant additions (excluding costs of removals and retirements) included in Petitioner's most recent general rate case, totaling at least $114,004,218. He testified these additions are not included in Petitioner's DSIC 12 filing, but are presented in Attachment SSH-11 in accordance with the Commission's Order in Cause No. 45142. Finally, Attachment SSH-12 separately summarizes main relocation projects and lead service line projects from Attachment SSH-2 and Attachment SSH-3, Part 1. He explained these projects are separately delineated because DSIC costs associated with lead service line replacements and with relocations are not subject to the 10% cap on total DSIC revenues.

Mr. Hoffman generally described the types of projects included in Attachments SSH-2 and SSH-3. He explained that all the Improvements included in this Cause are replacement infrastructure, reinforcement projects, and distribution system retirements. He stated that replacement infrastructure includes water mains, tanks, tank coating systems, valves, hydrants, service lines, and meters. He explained that a portion of the replacement infrastructure is associated with right-of-way improvements projects wherein the location of Indiana-American infrastructure directly conflicted with other public infrastructure improvement projects like road and sewer projects. Other projects included replacement of obsolete water mains, tanks, tank coating systems, hydrants, valves, meters, and service lines that are in poor condition or hydraulically deficient for providing adequate service including public fire protection. He further explained that reinforcement infrastructure consists of mains, valves, and hydrants with the purpose of improving pressure, fire flow, and service reliability of the existing distribution system. He testified that all the retirements associated with the new infrastructure were recorded on Indiana-American's books and records as of the date of Petitioner's filing. He also testified that no costs of removals were estimated. Mr. Hoffman explained that all the projects listed individually in Attachments SSH-2 and SSH-3 represented eligible DSIC projects, including the blanket categories. He explained the presentation of the blanket projects, noting that blanket categories are used for common, similar activities like replacement meters, service lines, hydrants, and unscheduled main replacements.

Mr. Hoffman testified regarding what types of projects are eligible for inclusion in Petitioner's DSIC filings. He explained that Petitioner has been involved in 12 DSIC filings and, over the years, the Commission's Orders have clarified and provided guidance on the types of projects it considers to satisfy the DSIC statute's requirements.

Mr. Hoffman testified that all Improvements listed in Attachments SSH-2 and SSH-3 meet the DSIC statutory requirements. He testified that none of the projects increase revenues by connecting the distribution system to new customers, all the projects are in service, none of the projects were previously included in rate base, all necessary local, state, and federal permits, approvals, and authorizations have been obtained, and there was no affiliate involvement in any of the transactions. Mr. Hoffman explained that as Director of Engineering, he has familiarity with these projects through regular communication with Indiana-American Engineering staff during the planning, design, and construction phases of these projects. Indiana-American project managers also confirm projects are in service through a physical inspection and then enter in-service dates for completed projects in Indiana-American's accounting software system.

He testified that he verified that none of the project costs identified in this Cause were included in rate base in any prior Causes. He explained some of the remaining project costs included in this current DSIC 12 proceeding are for projects that were placed in service prior to May 1, 2020; however, the project costs included in this DSIC 12 proceeding were not included in rate base in the most recent general rate case because these costs were above the 2019 Rate Order rate base cap of $1,182,170,152, and were DSIC eligible costs above and in excess of the $114,004,218 of DSIC-eligible plant additions (excluding costs of removals and retirements) that were included in Cause No. 45142. He further explained some of the other project costs for projects that were placed in service prior to May 1, 2020, were not included in rate base in the 2019 Rate Order because the costs were incurred after the most recent rate base cutoff or because Petitioner had not completed all accounting for these costs by the most recent rate base cutoff.

Mr. Hoffman testified regarding the funding of the Improvements. He stated that projects included in this DSIC 12 were funded by Petitioner or were reimbursed by INDOT or others, as noted by Mr. Shimansky.

Mr. Hoffman stated Petitioner has a five-year Strategic Capital Expenditure Plan that provides for budgeted amounts of approximately $400,000,000 for replacement mains, reinforcement mains, DSIC tank related work, hydrants, services, and meters for the period 2021-2025. He testified that included in this amount is approximately $48,000,000 budgeted over the same period for water main replacements required by state and local governments because of road improvements and other projects. He testified that Petitioner would continue to review the planned level of investment and will make adjustments as required to address needs for replacement and reinforcement infrastructure.

5. <u>Joint Proposal for Resolution in Lieu of Settlement.</u> On February 25, 2021, Indiana-American filed on behalf of itself and the OUCC, a Joint Proposal for Resolution in Lieu of Settlement resolving all issues in this Cause. In the Resolution, Indiana-American explained that given the expedited procedural schedule in this Cause, the parties had reached a resolution of all issues and were offering the joint proposal in lieu of settlement. Indiana-American further explained that for purposes of reaching a resolution of all issues, Petitioner and the OUCC were proposing that Petitioner withdraw two of the projects contested by the OUCC (the Winchester VFD project and the London Road Reinforcement – Phase 1 project) and the OUCC would agree not to offer its prefiled testimony, thereby effectively withdrawing its opposition to the third and only remaining contested issue (the London Road Reinforcement – Phase 2 project). Indiana-American also filed updated testimony and attachments incorporating the terms of the Resolution and reflecting the withdrawal of these two projects, including an updated calculation of the DSIC charge and a revised tariff.

Attachment GDS-2 associated with the Resolution reflects net DSIC 12 plant additions of $78,838,623, consisting of water plant additions of $75,582,241 less retirements of $4,940,318, plus cost of removal net of salvage of $8,213,099, less INDOT reimbursements of $16,399. The proposed additions were above the $114 million in DSIC eligible assets included in Indiana-American's Step 2 rate base true-up placed in service through November 30, 2020. Mr. Shimansky proposes to use a pre-tax rate of return of 7.79% based upon Petitioner's December 31, 2020 capital structure and common equity cost rate approved in Petitioner's last rate case. Petitioner's pre-tax return on additions is $6,138,513, adding depreciation of $1,500,989 less the $71,276 over recovery reflected in Petitioner's DSIC 11 variance results in total DSIC 12 revenues of $7,568,226. Petitioner's total DSIC 12 revenues to be recovered are within the 10% statutory cap of Petitioner's base revenues in its last rate case.

6. <u>Commission Discussion and Findings</u>.

A. <u>DSIC Requirements and Calculation</u>. Ind. Code ch. 8-1-31 requires the Commission to approve a DSIC to allow a water utility to adjust its basic rates and charges to recover a pre-tax return and depreciation expense on eligible infrastructure improvements. Ind. Code § 8-1-31-5 defines eligible infrastructure improvements for water distribution infrastructure of a public utility as new, used, and useful water utility plant projects that:

(a) do not increase revenues by connecting to new customers;

(b) are in service; and

(c) were not included in the public utility's rate base in its most recent general rate case.

Under Ind. Code § 8-1-31-6, the rate of return allowed on eligible infrastructure improvements is equal to the public utility's weighted cost of capital. Ind. Code § 8-1-31-12 provides that the cost of common equity to be used in determining the weighted cost of capital shall be the most recent determination by the Commission in a general rate proceeding of the public utility unless the Commission finds that such determination is no longer representative of current conditions.

Furthermore, in 2017, the Indiana Legislature passed House Enrolled Act 1519, which changed how the DSIC surcharge is to be calculated. In the past, the surcharge was to be calculated as a percentage that was applied to both the consumer's volumetric and metered service charge revenues for all rate groups. Now, Ind. Code § 8-1-31-8, as amended by P.L. 91-2017 (effective July 1, 2017), states as follows:

> Sec. 8. (a) Except as provided in subsection (d), an eligible utility may file with the commission a petition setting forth rate schedules establishing an amount that will allow the adjustment of the eligible utility's basic rates and charges to provide for recovery of infrastructure improvement costs. **The adjustment shall be calculated as a monthly fixed charge based upon meter size**. (Emphasis added.)

As a result, Petitioner is now required to calculate the surcharge applicable to the total DSIC revenue requirement as a fixed charge based upon a meter equivalency size.

B. Approval of Proposed DSIC. The only issue in dispute in this Cause is whether three projects included in Indiana-American's case-in-chief were DSIC-eligible projects for purposes of Ind. Code § 8-1-31-5. On February 25, 2021, Indiana-American and the OUCC filed the Resolution, which resolved all issues related to these projects. For purposes of the Resolution, Petitioner agreed to withdraw two of the projects contested by the OUCC (i.e., the Winchester VFD project and the London Road Reinforcement – Phase 1 project) and the OUCC agreed not to offer its prefiled testimony, thereby effectively withdrawing its opposition to the third and only remaining contested issue (i.e., the London Road Reinforcement – Phase 2 project).

Based on the evidence provided, Petitioner's requested relief should be approved. We find the total cost for the additional net investor supplied DSIC Additions is $78,838,623. We find the pre-tax return associated with those additions, as calculated in accordance with Ind. Code ch. 8-1-31, is 7.79%. The revenue requirement for depreciation on the Improvements is $1,500,989, less the DSIC 11 over recovery of $71,276, for a total DSIC 12 revenue requirement of $7,568,226, which includes revenues not used to calculate the 10% cap established by Ind. Code § 8-1-31-13(a). Accordingly, the total revenue requirement associated with the DSIC 12 Improvements applicable to the revenue cap is below 10% of the revenues authorized in Petitioner's last rate case. Therefore, the DSIC to be established in this proceeding is not subject to reduction under Ind. Code § 8-1-31-13.

Furthermore, the evidence shows that all the projects, as modified by the Resolution, are in service, do not result in the addition of new customers to Petitioner's system, and fall into the NARUC Uniform System of Accounts for Water Utilities Accounts 304, 311, 320, 330, 331, 333, 334, or 335. As such, they are eligible for inclusion in a DSIC.

The evidence further shows that Petitioner calculated the DSIC surcharge in this proceeding as a monthly fixed charge based upon meter size, as required by amended Ind. Code § 8-1-31-8. Specifically, Petitioner proposes a new DSIC 12 monthly surcharge of $1.60 per equivalent 5/8" meter as set forth in Attachment GDS-2, Schedule 2.

Based on the evidence presented, the Commission finds that Petitioner's request for a DSIC complies with the requirements of Ind. Code ch. 8-1-31 and 170 IAC 6-1.1. Further, Petitioner's proposed DSIC is non-discriminatory, reasonable, and just. We find that Petitioner is therefore authorized to collect from each of its present and future water customers a monthly DSIC of $1.60 per equivalent 5/8" meter as set forth in Attachment GDS-2 associated with the Resolution.

C. Reconciliation of Petitioner's DSIC. Petitioner should be prepared to reconcile the DSIC approved by this Order in the manner prescribed by Ind. Code § 8-1-31-14 and 170 IAC 6-1.1-8. Under Ind. Code § 8-1-31-14, at the end of each 12-month period a DSIC is in effect the difference between the revenues produced by the DSIC and the expenses and the pre-tax reflected in it should be reconciled and the difference refunded or recovered as the case may be through adjustment of the DSIC.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. A Distribution System Improvement Charge calculated as a fixed charge by meter size and designed to generate total annual DSIC revenues of $7,568,226 is approved.

2. Prior to placing into effect the above-authorized DSIC, Indiana-American shall file under this Cause Petitioner's Exhibit No. 1, Attachment GDS-1 as an appendix to its schedule of rates and charges for water service for approval by the Commission's Water/Wastewater Division.

3. The above-authorized DSIC shall be subject to reconciliation as described in Finding No. 6(C) above.

4. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:

APPROVED: MAR 17 2021

I hereby certify that the above is a true and correct copy of the Order as approved.

Dana Kosco Digitally signed by Dana Kosco Date: 2021.03.17 10:21:24 -04'00'

Dana Kosco
Secretary of the Commission